



February 15, 2005

SENATE BILL No. 59

DIGEST OF SB 59 (Updated February 10, 2005 2:59 pm - DI jhm)

Citations Affected: IC 34-23; noncode.

Synopsis: Wrongful death. For purposes of an action by a parent or guardian for the injury or death of a child, amends definition of "child" to include an unmarried individual without dependents who is: (1) less than twenty-three (23) years of age and engaged in military service or (2) is a military veteran less than twenty-seven (27) years of age and enrolled in an institution of higher education or vocational school. Makes conforming amendments.

Effective: September 11, 2001 (retroactive); upon passage.

Paul

January 4, 2005, read first time and referred to Committee on Rules and Legislative Procedure.

February 14, 2005, amended; reassigned to Committee on Corrections, Criminal and Civil Matters.

C
o
p
y

SB 59—LS 6195/DI 13+



February 15, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 59

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-23-2-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE SEPTEMBER 11, 2001 (RETROACTIVE)]:
3 Sec. 1. (a) As used in this section, "child" means an unmarried
4 individual without dependents who is:

5 (1) less than twenty (20) years of age; ~~or~~

6 (2) less than twenty-three (23) years of age and is enrolled in an
7 institution of higher education or in a vocational school or
8 program **or is engaged in military service; or**

9 **(3) is a military veteran less than twenty-seven (27) years of**
10 **age and is enrolled in an institution of higher education**
11 **or vocational school following active military service.**

12 (b) An action may be maintained under this section against the
13 person whose wrongful act or omission caused the injury or death of a
14 child. The action may be maintained by:

15 (1) the father and mother jointly, or either of them by naming the
16 other parent as a codefendant to answer as to his or her interest;

17 (2) in case of divorce or dissolution of marriage, the person to

C
o
p
y

SB 59—LS 6195/DI 13+



whom custody of the child was awarded; and

(3) a guardian, for the injury or death of a protected person.

(c) In case of death of the person to whom custody of a child was awarded, a personal representative shall be appointed to maintain the action for the injury or death of the child.

(d) In an action brought by a guardian for an injury to a protected person, the damages inure to the benefit of the protected person.

(e) In an action to recover for the death of a child, the plaintiff may recover damages:

(1) for the loss of the child's services;

(2) for the loss of the child's love and companionship; and

(3) to pay the expenses of:

(A) health care and hospitalization necessitated by the wrongful act or omission that caused the child's death;

(B) the child's funeral and burial;

(C) the reasonable expense of psychiatric and psychological counseling incurred by a surviving parent or minor sibling of the child that is required because of the death of the child;

(D) uninsured debts of the child, including debts for which a parent is obligated on behalf of the child; and

(E) the administration of the child's estate, including reasonable attorney's fees.

(f) Damages may be awarded under this section only with respect to the period of time from the death of the child until:

(1) the date that the child would have reached:

(A) twenty (20) years of age; ~~or~~

(B) twenty-three (23) years of age, if the child was enrolled in an institution of higher education or in a vocational school or ~~program; or~~ **program or is engaged in military service; or**

(C) twenty-seven (27) years of age, if the child was a military veteran and was enrolled in an institution of higher education or vocational school following active military service; or

(2) the date of the child's last surviving parent's death;

whichever first occurs.

(g) Damages may be awarded under subsection (e)(2) only with respect to the period of time from the death of the child until the date of the child's last surviving parent's death.

(h) Damages awarded under subsection (e)(1), (e)(2), (e)(3)(C), and (e)(3)(D) inure to the benefit of:

(1) the father and mother jointly if both parents had custody of the child;

C
o
p
y



1 (2) the custodial parent, or custodial grandparent, and the
2 noncustodial parent of the deceased child as apportioned by the
3 court according to their respective losses; or

4 (3) a custodial grandparent of the child if the child was not
5 survived by a parent entitled to benefit under this section.

6 However, a parent or grandparent who abandoned a deceased child
7 while the child was alive is not entitled to any recovery under this
8 chapter.

9 SECTION 2. [EFFECTIVE UPON PASSAGE]: **IC 34-23-2-1, as**
10 **amended by this act, applies to causes of action accruing after**
11 **September 10, 2001.**

12 SECTION 3. **An emergency is declared for this act.**

C
O
P
Y



SENATE MOTION

Madam President: I move that Senator Garton be removed as author of Senate Bill 59 and that Senator Paul be substituted therefor.

GARTON

**C
o
p
y**



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 59, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning civil law and procedure.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Corrections, Criminal and Civil Matters.

(Reference is to SB 59 as introduced.)

GARTON, Chairperson

C
o
p
y

